

19.17 Miscellaneous Use, Development and Performance Standards

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19.17.005 User Guide.

This Chapter contains a variety of regulations and standards that apply to the use and development of land. The regulations in this Chapter do not apply to all uses or developments. The regulations are arranged alphabetically so that careful review of the table of contents is important to finding all pertinent regulations.

19.17.010 Multi-Family Recreation Space

1. New developments of 4 *multiple family dwelling units* or more shall provide a minimum of 200 square feet of required common recreation space per *dwelling unit*. The required common recreation space shall be in one or more areas on site that are available and accessible to all residents of the development.

A. Not more than 50% of the required common recreation space shall be indoors. Such areas must be located, designed and improved in a manner that provides recreational opportunities functionally equivalent to those recreational opportunities available outdoors.

B. At least 50% of the required common recreation space shall be designed and improved as play space for preadolescent children--environments that are designed to support and suggest activities that are an essential part of a child's learning and development (social, emotional, cognitive, and physical). Unless otherwise approved by the *Director*, required play space for children shall be

accessible from all *dwelling units* by pedestrian paths separate from vehicular areas. The requirement for play space for children shall not apply to developments devoted exclusively to senior citizens.

C. An area designated as required common outdoor recreation space shall:

- i. Have a minimum size of 800 square feet and minimum width and depth of 25 feet.
- ii. Not be located in the following *critical areas* or their *buffers*: *wetlands*, *streams*, and *flood hazard areas*
- iii. Be of a grade and surface suitable for recreation.
- iv. Be centrally located and accessible and convenient to all residents within the development.
- v. Be connected by path, walkway or separated walkway across a parking area to any adjacent existing or planned public park, open space or trail system.
- vi. Not be used for driveways, parking or other vehicular use. Adequate *fence* and/or plant screening, as approved by the *Director*, shall be provided to separate outdoor recreation areas from vehicular areas.
- vii. Not be located in the required *front setback* or in an *interior setback* abutting a *single-detached dwelling unit* or *single family residential zone*.

2. All new developments shall provide a minimum of 80 square feet of outdoor private recreation space if provided as a *patio* and 60 square feet of outdoor private recreation space if provided as a *deck* or *balcony*, for each *multiple family dwelling unit*.

A. An area designated as required private outdoor recreation space shall:

- i. Have a minimum width and depth of 8 feet for *patios* and 6 feet for *decks* or *balconies*
- ii. Not be located in the following *critical areas* or their *buffers*: *wetlands*, *streams*, or *flood hazard areas*
- iii. Be of a grade and surface suitable for recreation.
- iv. Be adjacent to and directly accessible from the corresponding *dwelling unit*.
- v. Not be used for driveways, parking or other vehicular use. Adequate fence and/or plant screening, as approved by the *Director*, shall be provided to separate outdoor recreation areas from vehicular areas.
- vi. Not be located in the required *front setback* or in an *interior setback* abutting a *single-detached dwelling unit* or RS zone. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]

B. Private and common recreation space in the downtown commercial (DC) zone.

- i. In the downtown commercial zone the total amount of required private and common recreation space per dwelling unit shall be no less than 260 square feet.

- 1) The total recreation space shall be provided on-site unless otherwise approved subject to BMC 19.17.010.4.
 - 2) A minimum of 50% of the total number of dwelling units shall have individual private recreation spaces (*decks, balconies or patios*). If the calculation results in a fraction the number shall be rounded to the nearest integer. For those units that do not provide private recreation space the private recreation space area (*decks, balconies or patios*) shall be included in the total required amount of common outdoor recreation space.
- ii. Dimensions of private recreation space are subject to the minimum standards set forth in BMC Chapter 19.17.010.2.
 - iii. Design of common recreation space is subject to the minimum standards set forth in BMC Chapter 19.17.010.1 and/or the design standards set forth in BMC chapter 19.47. The Director may modify the required amount of recreation space as specified in BMC 19.17.010.1.B (play space for preadolescent children), if appropriately sized facilities are provided for the targeted housing market segment, as determined through the development review process. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]
3. Maintenance of recreation space shall be the responsibility of the owner or other separate entity (such as a homeowners association) capable of long-term maintenance and operation in a manner acceptable to the *Director*.
 4. *Mixed use* developments in a Downtown Commercial (DC) zone containing more than 20 *dwelling units* may be exempted from the requirements of BMC 19.17.010.1 in whole or in part. The *Director* may accept a fee in lieu of on-site recreation space for no more than 50% of the space required by this code is to be spent on designated park, recreational or open space resources within the DC zones. [Ord. 437 § 12, 2005, Ord. 273 § 1, 1999]
 5. The fee in lieu of recreation space shall be determined within one month from the adoption of this Code and each year thereafter during January by the following methods:
 - a. The *Director* shall divide the acreage of land in public neighborhood and community parks (including only the playground areas for schools) within the City as defined in the Comprehensive Plan, by the number of *dwelling units* estimated for the City in the preceding year population estimate by the State of Washington Office of Financial Management. This produces a ratio (denoted P) of needed park acres per *dwelling unit*.
 - b. The applicable fee shall be the number of proposed *dwelling units* times the average land value per acre as determined by the most recent tax statement on the property, times P times 150%.

19.17.015 Transition Standards

1. Purpose. The purpose of this section is to provide standards for creation of a buffer between a *residential zone* and a zone that permits development of higher intensity, and between an RM zone and an RS zone.
2. Applicability. This section applies to any *lot* located in a zone designated on the chart below as “Zone providing transition,” and that is located within 100 feet of a zone within the City of Burien designated on the chart as “Zone receiving transition”, or within 100 feet of a similar zone outside of

the city limits. The requirements of this section must be met on the *lot* located within the zone providing transition.

TABLE 19.17.015-1

ZONE PROVIDING TRANSITION	ZONE RECEIVING TRANSITION	
	RS	RM
RM	U	---
CN	U	U
CI	U	U
CC	U	U
CR	U	U
O	U	U
I	U	U
SPA3	U	U

U--This symbol means that a *lot* in the zone listed on the left must provide transition to *lots* in the zone listed at the top of the column.
[Ord. 273 § 1, 1999]

3. Transition Area Standards.

The following standards apply to any *development activity* within a transition area:

A. A landscape buffer, at least 20 feet in width, shall be provided along the entire *street* frontage where any portion of the *street* frontage is abutting a zone receiving transition and along the *interior property line* abutting the zone receiving transition. The landscape buffer shall comply with Type I landscaping, as described in Chapter 19.25. Driveways shall not be allowed within the landscape buffer area, unless, in the opinion of the *Director*, there is no feasible alternative for providing access. If allowed, driveway width shall be the minimum necessary to provide safe access. [Ord. 313 § 1, 2000]

B. *Building height* shall not exceed 35 feet.

C. Building façade modulation shall be provided on façades that exceed 60 feet in length and are oriented toward the zone receiving transition. The following standards shall apply:

- i. The maximum wall length without modulation shall be 30 feet.
- ii. The minimum modulation depth shall be three feet.
- iii. The minimum modulation width shall be eight feet.

D. Roofline variation shall be provided on rooflines that exceed 60 feet in length and are oriented toward the zone receiving transition. Roofline variation shall be achieved by using one or more of the following methods: vertical or horizontal offset in ridge line, variation of roof pitch, gables, or any other technique approved by the *Director* that achieves the intent of this section. The following standards shall apply:

- i. The maximum roof length without modulation shall be 30 feet.
- ii. The minimum horizontal or vertical offset shall be three feet.

- iii. The minimum variation length shall be eight feet.
- E. Mechanical equipment shall be located as far away as possible from the zone receiving transition, but not in a *front setback* or required perimeter landscaping.
- F. Truck loading spaces, and refuse collection areas shall be located as far away as possible from the zone receiving transition, but not in a *front setback* or required perimeter landscaping.

4. Administrative Adjustment.

The *applicant* may request and the *Director* may grant an adjustment to the standards in this section through a Type 1 review process upon a showing that the proposed adjustment:

- A. Will not be detrimental to surrounding properties; and
- B. Will comply with the purpose and intent of this section (BMC 19.17.015.1); and
- C. Will provide equal or greater protection for the zone receiving transition than strict compliance with this section would provide.

19.17.020 Vendor Carts.

1. *Vendor carts* complying with all of the following criteria are allowed:

- A. A City of Burien business license must be obtained.
- B. Vending of food and beverages must meet all health and licensing standards established by the King County Health Department.
- C. The *vendor cart* must comply with applicable requirements of the *City of Burien Construction Code*.
- D. Any *vendor cart* proposed in the City *right-of-way* must also obtain a City street use permit.
- E. *Vendor carts* are not allowed in *residential zones*.
- F. The *vendor cart* shall not be located in any required parking, *setback*, or landscape area.
- G. The *vendor cart* location shall minimize conflicts between pedestrian and vehicular circulation and minimize traffic congestion.
- H. Drive-up or drive-through *vendor carts* are not allowed.
- I. The *vendor cart* shall not be more than eight (8) feet long, five (5) feet high, and four (4) feet wide. A five (5) foot clearance exclusively for pedestrian circulation shall be provided on the *street* side or parking lot side of the cart and ~~accessory~~ appurtenances, including seating areas.
- J. The cart must have at least two (2) functional wheels and positive locking wheel devices. The wheels of the cart must be locked while the cart is outside of a *building*.
- K. Mechanical audio or noise-making devices are not allowed.
- L. The vending site must be kept clean at all times. The vendor must supply a refuse container.

M. One sign is permitted, not to exceed eight square feet, which may be double-sided. Portable signs (such as sandwich or A-frame signs) are not allowed.

N. The hours of operation shall be 5am to 12:00 midnight.

2. *Vendor carts* that do not comply with one or more of the criteria in BMC 19.17.020.1.D through 19.17.020.1.N may be allowed through a Type 1 review if the proposal:

A. Will be compatible with adjacent land uses and zones, and

B. Will be consistent with the purpose of the zone in which it is located, and

C. Will not be detrimental to public health, safety or welfare.

19.17.030 Adult Entertainment Facilities

1. Purpose and intent. The purpose and intent of requiring standards for *adult entertainment facilities* is to mitigate the adverse secondary effect caused by such facilities and to maintain compatibility with other land uses and services permitted within the city.

2. Applicability. The standards in this section apply to all *adult entertainment facilities*, as defined in BMC 19.10.017 and are not subject to a variance.

3. Limitations. The standards in this section shall not be construed to restrict or prohibit the following activities:

A. A *theater* or performing arts institution that presents a play, opera, musical, dance or other dramatic work that is not distinguished or characterized by a predominant emphasis on nudity or sexual conduct; or

B. A public or private educational institution, administered, licensed or recognized as a public or private educational institution by the State of Washington, that provides a modeling session or other class or seminar depicting nudity or sexual conduct.

4. Location and separation requirements.

A. An *adult entertainment facility* shall only be located in the I (Industrial) and Special Planning Area 4C zones.

B. An *adult entertainment facility* shall not be permitted to locate within 330 feet of any of the following sensitive zones or *uses* in the City of Burien, or their equivalent sensitive zones or *uses* outside of the city limits:

i. Any RS zone, RM zone, or any *dwelling unit*;

ii. Any *day care operation* or *recreational facility* attended by minors;

iii. Any *school*, preschool or nursery school;

iv. Any *public park and recreation facility*;

- v. Any *religious facility*,
 - vi. Any public library or community center; and
- C. An *adult entertainment facility* shall not be permitted to locate within 1,000 feet of any other *adult entertainment facility*.
- D. The 330 foot distance in BMC 19.17.030.4.B shall be measured by extending a straight line between the nearest boundary line of a sensitive zone or nearest property line of the lot containing the sensitive use, to the closest point of the structure containing an adult entertainment facility, whichever is the greater distance.

5. Waiver of separation requirements.

An *applicant* may obtain a waiver of the separation requirements required by BMC 19.17.030.4.B and C through a Type 3 review, only if the *applicant* demonstrates that all of the following criteria are met:

- A. The extent to which physical features would result in an effective separation between the proposed *adult entertainment facility* and any *uses* or zones identified in BMC 19.17.030.4.B in terms of visibility and access; and
- B. The extent to which the proposed *adult entertainment facility* complies with the goals and policies of the Burien Comprehensive Plan; and
- C. The extent to which the proposed *adult entertainment facility* is compatible with adjacent and surrounding *uses*; and
- D. The availability or lack of alternative locations for the proposed *adult entertainment facility*; and
- E. The extent to which the proposed *adult entertainment facility* can be avoided by alternative vehicular and pedestrian routes; and
- F. The extent to which the *applicant* can minimize the adverse secondary effects associated with the proposed *adult entertainment facility*. [Ord. 396 § 1, 2003, Ord. 291 § 2, 2000]

19.17.040 Cargo Containers

1. Purpose. The purpose of this section is to promote vibrant, attractive pedestrian mixed use areas while protecting residential neighborhoods and allow use of *cargo containers* by Burien businesses, contractors and community-related *uses* to provide secure, easily accessible *accessory* storage at relatively inexpensive levels.
2. Temporary Use. *Cargo containers* may be used for temporary storage of equipment and/or materials at a construction *site* during active construction that is authorized by a city permit.
3. *Cargo containers* are not allowed in the Downtown Commercial (DC), Office (O), Neighborhood Center (CN) and Special Planning Area 1 (SPA-1) zones, except as permitted in BMC 19.17.040.2.
4. *Cargo containers* are permitted as *accessory uses* in *residential zones* at a *community facility, government facility, hospital, public park and recreation facility, or school*.

A. All requirements, permits and approvals of BMC Titles 15, 18 and 19 pertaining to *structures* shall apply, including but not limited to *setbacks, lot coverage, critical area* and transition area requirements.

B. *Cargo containers* located within a *residential zone* shall be no greater in size than ten (10) feet by twenty (20) feet, and shall have a stick-built *structure* constructed to completely enclose the *cargo container*. Upon removal of the *cargo container* the screening *structure* shall also be removed. No stick-built *structure* shall be required if the *cargo container* is totally *screened* from abutting *residential zone lots* as determined by the *Director*.

C. *Cargo containers* shall not be stacked.

D. *Cargo containers* shall not occupy any required off-*street parking spaces*, vehicular access, pedestrian facilities or landscape areas for the *site*.

5. *Cargo containers* are permitted as *accessory uses* in the Industrial (I), Intersection Commercial (CI), Community Commercial (CC-1 and CC-2), Regional Commercial (CR), Special Planning Area 3 (SPA-3), Special Planning Area 4 (SPA-4) zones and in the SPA-2 zone as part of the master plan review (pursuant to BMC 19.15.060.1). *Cargo containers* in these zones are subject to the requirements below. *Airplane unit load devices* located in the I and SPA-4 zones are not regulated as *cargo containers*.

A. All requirements, permits and approvals of BMC Titles 15, 18 and 19 pertaining to *structures* shall apply, including but not limited to *setbacks, lot coverage, critical area* and transition area requirements.

B. *Cargo containers* shall be *screened* from abutting *rights-of-way* and *adjoining lots* with a minimum of 10 feet of Type I *landscaping*. The *Director* may approve alternate *screening* that achieves the intent of a visual barrier. In reviewing alternate *screening* the *Director* shall consider the proposed location of the *cargo container*; amount of usable space on the *site* for *landscaping* view of the *cargo container* from abutting *rights-of-way* and *adjoining lots*, and the physical condition of the *cargo container*. All proposed *screening* shall be submitted for the review and approval by the *Director*.

C. *Cargo containers* shall not be located between a *building* and *front property line*. On a *site* with all *front property lines*, the *cargo container* shall be placed in a location that minimizes visual impact of the *cargo container* from surrounding *streets* and properties.

D. *Cargo containers* shall be painted to match the primary color of the adjacent *building*. If the *cargo container* is located within a *building* or not visible from abutting *rights-of-way* and *adjoining lots* as determined by the *Director*, painting is not required.

E. A *cargo container* located within 100 feet of a *residential zone* shall be no greater in size than ten (10) feet by twenty (20) feet, and shall have a stick-built *structure* constructed to completely enclose the *cargo container*. Upon removal of the *cargo container* the screening *structure* shall also be removed. No stick-built *structure* shall be required if the *cargo container* is totally *screened* from abutting *residential zone lots* as determined by the *Director*.

F. *Cargo containers* shall not occupy any required off-*street parking spaces*, vehicular access, pedestrian facilities or landscape areas for the *site*.

G. *Cargo containers* may be stacked two-high in the Industrial (I) zone, and shall not be stacked in any other zone.

H. *Cargo containers* shall not be used for warehouse/storage as the primary use of the property.

I. Outdoor *cargo containers* shall not be refrigerated.

6. Legal Nonconforming Cargo Containers: *Cargo containers* that have been legally located on a *site* prior to November 12, 2002 shall be a legal *nonconforming structure*. In addition to the provisions for nonconforming structures in BMC 19.55, *cargo containers* shall lose legal *nonconforming* status under the following circumstances:

A. Any legal *nonconforming cargo container* that is moved to a different location on a *site* shall comply with the requirements of BMC 19.17.040.

B. If a legal nonconforming *cargo container* is removed from a *site*, any subsequent *cargo containers* placed on the *site* shall comply with the requirements of BMC Titles 15, 18 and 19.

7. Illegal Cargo Containers: *Cargo containers* located on a *site* prior to {Effective date of ordinance} that do not have all required permits and approvals are considered illegal and shall have until {12 months after effective date of ordinance} to either come into compliance with BMC Titles 15, 18 and 19 or be removed.

8. Permits for *cargo containers* shall include all necessary approvals from the *Director*, Building Official and Fire Marshal. Required permits include a building permit and a General Use Fire Permit. Use of the container shall not inhibit the Building Official and/or Fire Marshal from conducting all necessary inspections. [Ord. 396 §1, 2003, Ord. 369 §1, 2002; Ord. 313 §1, 2000]

19.17.050 Repealed. [Ord. 479 §1, 2007]

19.17.060 Residential Accessory Uses – General.

Uses, structures and activities that are customarily associated with residential *uses* are allowed in all *residential zones* and in any zone in which residential *uses* are allowed. The residential *accessory use* shall be subordinate and incidental to the residential *use* of the property. Such *uses* include but are not limited to: *accessory living quarters*; storage of yard maintenance equipment; storage of private vehicles and recreational equipment; pools, private docks and piers; antennae for private telecommunications services; on-site rental *office* for apartment complexes; and fallout/bomb shelters. Other residential *accessory uses*, such as *accessory dwelling units*, *home occupations*, *bed and breakfast establishments* and keeping of animals, are allowed subject to special regulations in Chapter 19.17. [Ord. 355 §1, 2002]

19.17.070 Accessory Dwelling Units.

1. Purpose. *Accessory dwelling units* (ADUs) implement the housing policy provisions of the city's comprehensive plan by creating an affordable housing alternative and providing a choice of housing that responds to changing needs and lifestyles by offering rental income, security, and companionship to individuals and families. The purpose of the ADU regulations is to allow ADUs, while protecting property values, the stability, and appearance of single family neighborhoods.

2. Requirements. An *accessory dwelling unit* is allowed as an *accessory use* to a single *detached dwelling unit*, provided the following requirements are met:

A. Number. Only one attached or detached *accessory dwelling* is allowed per *lot*. [Ord. 479 §1, 2007]

- B. For the purpose of this section “attached” shall mean that the primary unit and *ADU* have at least one common wall and appear to be contained within one *structure*. Connection through a breezeway or covered pathway shall not constitute an attached *ADU*. [Ord. 479 §1, 2007]
- C. Owner Occupancy. Either the primary residence or the *accessory dwelling unit* shall be *owner occupied*.
- D. Record Notice. Approval of the *accessory dwelling unit* shall be subject to recording a notice approved by the city attorney with the King County Records and Elections Division. The notice shall run with the land, identify the address of the property, state that the owner(s) must reside in either the *primary* or *accessory dwelling unit*, and provide for the removal of the *ADU* if the owner occupancy requirement is violated.
- E. Size.
 - i. The finished floor area of the *accessory dwelling unit* shall not be larger than 50 percent of the finished floor area of the primary residence; and
 - ii. Internal or attached *ADUs* shall not exceed 1000 square feet and detached *ADUs* shall not exceed 800 square feet.
 - iii. The *Director* may make exceptions to size limitations to allow for the better utilization of existing spaces. *Buildings* must be at least 5 years old to be eligible for an exception to the size limitation.
- F. Parking. One additional on-*site parking space* shall be provided. Such parking must be located at the rear or side if feasible.
- G. Design. *ADUs* shall meet the following design requirements:
 - i. All new *structures*/additions must meet current development standards for the zone in which the property is located.
 - ii. A single *detached dwelling* that contains an *ADU* shall have only one entrance on each front or *street* side of residence. If the residence is not adjacent to a *street*, the front shall mean the side that contains the main entrance to the *primary dwelling*. Exceptions may be made if the second outside, front entrance is recessed or hidden from view.
 - iii. Additions shall be consistent with the *façade*, roof pitch, siding and windows of the existing *structure*.
 - iv. Detached *structures* shall match (or complement) the design of the primary unit and must integrate well with the single-family character of the neighborhood. Trailers, recreational vehicles or other such accommodations shall not be allowed as an *ADU*.

[Ord. 479 §1, 2007, Ord. 355 §1, 2002]

19.17.080 Bed and Breakfast Establishments

1. Purpose. The purpose of the bed and breakfast regulations is to provide small-business opportunities for Burien residents, provide an alternative form of lodging for visitors and to protect the residential character of neighborhoods in the City.

2. Applicability. The regulations of section 19.17.080 apply to *bed and breakfast establishments* in residential zones (RS and RM) and the Neighborhood Center (CN) zone. *Bed and breakfast establishments* in zones that allow *lodging facilities* are subject to those regulations.

3. Standards for operation of a *bed and breakfast establishment*.

A. Accessory Use. The *bed and breakfast use* must be *accessory* to the permanent residence of the operator.

B. Residential Character. Internal or external alterations of the *structure* that make the dwelling appear less residential in character are not allowed. Such changes may include paving of *setbacks*, constructing large parking areas visible from the *street* or neighboring properties and commercial type lighting.

C. Food Service. Food service may be provided only to overnight guests of the *bed and breakfast*.

D. Maximum Size. *Bed and breakfasts* are limited to three (3) bedrooms for guests. No more than ten (10) people total (including residents) may be accommodated overnight.

E. Parking. In addition to the required parking for the residential *use*, one on-*site parking space* is required for each room that is available for guests.

F. Employees. One non-resident employee is allowed on the premises at any one time. Occasional services provided by outside contractors, such as yard care or building maintenance, are not counted as non-resident employees.

G. Events. Meetings and social gatherings, including banquets, weddings, parties, retreats or other gatherings for direct or indirect compensation, are prohibited.

H. Business License. *Bed and breakfast establishments* are required to obtain a business license from the City Clerk's office.

I. Signs. *Signs* for *bed and breakfasts* are subject to the standards in BMC Chapter 18.50 Signs, as now in affect, and as may be subsequently be amended. [Ord. 355 §1, 2002]

19.17.090 Home occupations

1. Purpose. The purpose of the *home occupation* regulations is to encourage flexibility in the work place and promote small-business opportunities in Burien by allowing *home occupations*. The further purpose of the regulations is to protect the residential character of neighborhoods by ensuring that *home occupations* are of a scale and intensity that is compatible with residential areas.

2. Home Occupation Types.

A. Type A *home occupations* are those that have no employees or customers come to the *site* and that do not use machinery or use or store *hazardous substances* on the premises. Type A *home occupations* may use equipment commonly found in a single-family home or professional *office*, such as computers, fax machines and copiers.

B. Type B *home occupations* are those that have one employee or any number of customers come to the *site* use machinery, such as wood or metal shop tools, or use or store *hazardous substances* on the premises.

3. Licensing and Permits Required.

A. All *home occupations* (Type A and Type B) are required to obtain a City of Burien business license from the City Clerk's Office.

B. Type B *home occupations* are required to obtain a home occupation permit from the Department of Community Development prior to issuance of a business license.

C. Home occupation permit procedures:

i. *Home occupation* permits are valid for a period of two years. It is the responsibility of the *applicant* to obtain a permit every two years.

ii. Permits for *home occupations* that utilize machinery and/or use or store *hazardous substances* shall obtain approval from the Building Official and Fire Marshall.

iii. Inspection may be required prior to the issuance of a *home occupation* permit or as necessary to ensure compliance with applicable codes and conditions of the permit.

iv. Upon approval of a Type B *home occupation* permit, the Department of Community Development shall issue a notice to residents abutting and across the *street* from the *home occupation* and within 300 feet along the *street* in both directions. The notice shall describe the approved *home occupation* and standards by which it must operate.

v. The *Director* shall take appropriate action to enforce the requirements of this section. Failure to comply with the regulations of this section or conditions of the permit may result in the *home occupation* permit being revoked or denial of an application for renewal of the permit.

D. Type B *home occupations* that have a valid City of Burien business license on April 23, 2002 shall be required to obtain a *home occupation* permit within 2 years. If the Type B *home occupation* does not comply with current standards, it shall be subject to the provisions of BMC 19.55 Non-conformance.

4. Permitted home occupations. Residents of a *dwelling unit* may conduct one or more *home occupation* as *accessory* activities, provided they comply with the standards of this section and are not prohibited by subsection A below or another section of this code. The rationale for restricting the specific *uses* listed below is based on the goals and policies of the comprehensive plan, which generally states that well established residential areas should be protected from encroachment of non-residential *uses* that may be detrimental to those residential areas. The following *uses* are inconsistent with the goals and policies of the comprehensive plan and are restricted due to incompatibilities including but not limited to noise generation, visual appearance, odor and traffic impacts that are detrimental to residential areas:

A. Prohibited home occupations.

i. Automobile, truck and *heavy equipment* repair, body work or painting

- ii. Large or small engine repair
 - iii. Large appliance repair
 - iv. Parking and storage of *heavy equipment* or vehicles
 - v. Storage of building materials for use on other properties
 - vi. Headquarters or dispatch centers where more than one employee comes to the *site* and are dispatched to other locations
 - vii. Commercial *kennels*, cateries and stables
 - viii. Commercial painting
 - ix. *Religious facilities* (see BMC 19.15 for specific zoning requirements)
5. Standards for operation of a *home occupation*.
- A. Size. The total area devoted to all *home occupation(s)* shall not exceed 25 percent of the combined *gross floor area* of the primary residence and permitted *accessory buildings*, provided the floor area must be enclosed within a *building* to be counted.
 - B. Location. *Home occupations* may be conducted in the primary residence or a permitted *accessory building*. All the activities of the *home occupation(s)* shall be conducted indoors, except for those related to growing or storing of plants used by the *home occupation(s)*. Exterior storage, display or repair of goods or equipment related to *home occupation(s)* is prohibited.
 - C. Employees. *Home occupations* shall have no more than one nonresident employee on the premises at any one time.
 - D. Parking. In addition to required parking for the *dwelling unit*, on-*site* parking shall be provided as follows:
 - i. One stall for a nonresident employee that will work on the premises; and
 - ii. One stall for customers when services are rendered on-*site*
 - E. Retail Sales. Retail sales shall be limited to items produced on *site* or incidental sales of items associated with a service provided by the *home occupation*.
 - F. Customers. Customer visits to *home occupations* are limited to the hours from 8 a.m. to 8 p.m. No more than one customer may be at the residence at any one time and no more than 8 customer visits shall occur in any one-day. For the purpose of this section, one customer may consist of more than one person, such as a *family*.
 - G. Vehicles. The *home occupation(s)* may use or store one (1) vehicle for pickup or delivery of materials used by the home occupation(s), provided:
 - i. Such vehicle shall not park on adjacent *streets* or within any required *setback* areas of the *lot*, with the exception of the driveway; and

- ii. Such vehicle shall not exceed a gross vehicle weight rating of 10,000 pounds or capacity of one ton or similarly sized vehicle. The *Director* shall have the final determination authority on vehicle size and should consider potential impacts to the residential character of the neighborhood and/or surrounding properties.
- H. Deliveries to the *home occupation(s)* are permitted between 8 a.m. and 8 p.m. Vehicles used to deliver goods to the *home occupation* are limited to passenger vehicles, mail carriers and express carriers, such as UPS.
- I. Operation of the *home occupation(s)* shall comply with all applicable regulations, including but not limited to the Burien Municipal Code, Uniform Building Code and Uniform Fire Code, and shall not:
 - i. Create vibrations, heat, glare, dust, odors or smoke that is discernible at the *property lines* and is offensive to a reasonable person;
 - ii. Create noise exceeding 55 decibels at the *property line* from 8 a.m. to 8 p.m. or any noise discernible by the human ear at the *property lines* from 8 p.m. to 8 a.m. or noise considered a nuisance under BMC Chapter 8.45;
 - iii. Change the *building* occupancy classification of the *structure(s)* used for the *home occupation(s)*;
 - iv. Use or store *hazardous substances* in excess of those normally allowed in a residential area under the Uniform Building Code and Uniform Fire Code.
 - v. Create any electrical, magnetic or other interference off the premises; or
 - vi. Consume utility quantities that negatively impact the delivery of utilities to surrounding properties.
- J. Residential Character. Internal or external alterations that make the property appear less residential in character are not allowed. Examples of such changes may include paving of *setbacks*, constructing large parking areas visible from the *street* or neighboring properties and commercial type lighting. Use of commercial mobile offices are not allowed.
- K. Signs. Signage for *home occupations* is subject to the standards in BMC Chapter 18.50 Signs, as now in affect, and as may be subsequently be amended.
- 6. Exceptions.
 - A. Telecommuting is not classified as a *home occupation* and is not subject to the regulations of this section. For the purpose of this section, telecommuting is work done from home on a part-time basis for a business that is based off the premises. Telecommuting does not allow for non-resident employees or customer visits.
 - B. *Bed and breakfast establishments* are not subject to the regulations of this section. Regulations for *bed and breakfast establishments* are in section 19.17.080.
 - C. *Family daycare homes* are not subject to the regulations of this section. Regulations for *family daycare homes* are located in chapter 19.15 Use Zone Charts.

D. Garage sales, yard sales, temporary home boutiques or bazaars for handcrafted items, parties for display of domestic products, and other such *uses* are not subject to the regulations of this section, provided that any such *use* does not exceed three (3) days in duration and does not operate more than nine (9) days in a calendar year. [Ord. 355 §1, 2002]

19.17.100 Keeping of Animals

1. Purpose. The raising, keeping and breeding of animals are sources of enjoyment, recreation and learning for Burien residents. The purpose of this section is to establish regulations for the keeping of animals in residential areas that will enhance and preserve compatibility between neighboring properties, minimize nuisances and disturbances caused by animals, minimize the impact of *livestock* on the environment and prevent cruelty to animals.

2. Permitted accessory use. The raising, keeping and breeding of *small animals*, bees and *livestock* are allowed as an *accessory use* to residential uses in any zone or as an *accessory use* to any permitted *use* in a *residential zone*, subject to the regulations of this section and BMC Title 6, Animals.

3. Prohibited activities. Commercial *kennels* and catteries and fee boarding of *small animals* or *livestock* are not allowed unless specifically allowed in Chapter 19.15, Use Zone Charts. This prohibition does not apply to hobby *kennels* and catteries that comply with the requirements of this subsection and BMC Title 6, Animals.

4. Small animals. The maximum number of *small animals* are as follows, provided young of adult *small animals* on the premises under 3 months in age are excluded from the density limitations:

A. *Small animals* which are kept in a dwelling as household pets including those kept in aquariums, terrariums, cages or similar containers shall not be limited in number, except as may be provided in BMC Title 6.

B. Other *small animals* kept outside, except those otherwise regulated by this subsection, shall be limited to three per household on *lots* of less than 20,000 square feet, five per household on *lots* of 20,000 square feet, with an additional one allowed per 5,000 square feet of site area over 20,000 square feet up to a maximum of 20.

C. The total number of unaltered adult cats and dogs per household shall not exceed three, whether those animals are kept in a dwelling or outside, unless approved under a hobby *kennel* or cattery license.

D. Miniature potbelly pigs. One of the *small animals* allowed under 19.17.100.4.B, may be a miniature potbelly pig, provided that it does not exceed 22 inches in height at the shoulder or more than 150 pounds in weight.

E. Domestic fowl and rabbits. Any combination of three (3) *domestic fowl* and rabbits, with the exception of roosters, may be kept on any *lot* in addition to the *small animals* permitted in the preceding subsections. On *lots* of at least one-half acre, *domestic fowl* and rabbits may be kept at the rate of 7 per one-half acre.

F. Birds. Birds kept outside of a *dwelling unit* shall be kept in an aviary or loft that meets the following standards:

- i. The aviary or loft shall provide one-half square foot for each parakeet, canary or similarly sized birds, one square foot for each pigeon, small parrot or similarly sized bird, and two square feet for each large parrot, macaw or similarly sized bird;
 - ii. Aviaries or lofts shall not exceed 700 square feet;
 - iii. The aviary is *set back* at least 10 feet from a separate owner's *property line*, and 20 feet from any *dwelling unit* on adjacent properties.
- G. Setbacks. Any covered *structure* used to house or contain 4 or more *small animals* shall maintain a distance of not less than 20 feet to any *property line*
- H. Prohibited small animals. The keeping of roosters, mink, foxes and any exotic or wild animals that could pose a public threat or have an obnoxious nature which is a nuisance to the adjacent neighborhood are prohibited.
- 5. Beekeeping.
 - A. *Beehives* are limited to 2 hives on *sites* less than 10,000 square feet, 4 on *sites* between 10,000 and 20,000 square feet, 10 on *sites* between 20,000 square feet and 1 acre, 20 on *sites* between 1 and 1.5 acres, and 25 on *sites* between 1.5 and 5 acres.
 - B. Hives shall be located at least 25 feet from any *property line*, except when placed behind a 6 foot high *fence* which extends 25 feet beyond the hives in both directions, or placed at least 8 feet above the adjacent ground level.
 - C. Colonies shall be maintained in movable-frame hives at all times.
 - D. Adequate space shall be provided in each hive to prevent overcrowding and swarming.
 - E. Colonies shall be requeened following any swarming or aggressive behavior.
 - F. All colonies shall be registered with the State Department of Agriculture.
 - G. Abandoned colonies, diseased bees, or bees living in trees, *buildings*, or any other space except in movable-frame hives shall constitute a public nuisance, and the City shall take appropriate legal action to abate the nuisance.
- 6. Livestock.
 - A. The minimum *site* that may be used to accommodate *livestock* shall be 35,000 square feet, provided that the portion of the total *site* area available for use by the *livestock* meets the requirements of this subsection.
 - B. The maximum number of *livestock* shall be as follows:
 - i. Horses, cattle and similar sized *livestock* animals: 1 per acre of area available for the animal's occupancy;
 - ii. Llamas, donkeys, miniature horses and cattle and similar sized livestock animals: 1 per .5 acre available for the animal's use;

- iii. Sheep, goats and similar sized *livestock* animals: 1 per .25 acre of area available for the animal's occupancy;
 - iv. Young of adult *livestock* on the premises that are under six months of age are excluded from the density limitations; and
 - v. *Livestock* densities may be increased as follows if a farm management plan, developed with the King Conservation District, is implemented and maintained: Three (3) horses, cows, or similarly sized animals, six (6) llamas, donkeys, miniature horses and cattle or similarly sized animals or fifteen (15) sheep, goats or similarly sized animals per gross acre of total *site* area. The farm management plan shall incorporate best management practices for grazing and pasture management, manure management, watering and feeding area management, and *stream* corridor and *wetland* management. Such plans must include a schedule for implementation and shall be on file with the Department of Community Development. Any Indian tribe with tribal rights to protection of the fisheries habitat provided by the site shall have 60 days from plan submission to comment on the plan. The plan must, as a minimum, achieve 25-foot vegetated *buffers* for all *streams* and *wetlands* on the *site* and assure that drainage ditches on the site do not channel animal waste to such *streams* or *wetlands*.
- C. Critical areas. The keeping of *livestock* is subject to the review requirements for *wetland* and *stream* protection in BMC 19.40, Critical areas.
- D. Setbacks. The following *setback* and *buffer* requirements apply to the keeping of *livestock*:
- i. Any *building* used to house, confine or feed *livestock* shall not be located closer than 35 feet to any boundary *property line*.
 - ii. Any *building* used to house, confine or feed *livestock* shall not be located closer than 35 feet to any *dwelling unit* or *accessory living quarters* on the same premises, except that a barn or stable may contain a caretaker's *accessory living quarters*.
 - iii. There shall be no uncovered storage of manure, shavings or similar organic material closer than 45 feet to any *dwelling unit*, *accessory living quarters* or boundary *property line*, and
 - iv. *Grazing* and *confinement areas* may extend to the *property line*.
- E. Prohibited livestock. The keeping of hogs is prohibited, with the exception of miniature potbelly pigs allowed under subsection 19.17.100.4.D.

7. Categorization of animals. In the event that animals are proposed that do not clearly fall within the categories established by this code, the *Director* shall determine an appropriate category based on that which is most similar to the animal in question. [Ord. 355 §1, 2002]

19.17.110 Secure Community Transition Facilities

1. Purpose and intent. The purpose and intent of requiring standards for *secure community transition facilities (SCTFs)* is to comply with RCW 71.09 while maintaining compatibility with other land uses and services permitted within the city.
2. Applicability. The standards in this section apply to all *SCTFs* proposed and approved pursuant to BMC 19.15 and are not subject to a variance.

3. Maximum number of residents: No *SCTF* shall house more than 3 persons, excluding resident staff.
4. Siting Criteria:
 - A. *SCTFs* shall locate in an the Industrial zone, Special Planning Area 4A (SPA-4A) zone, or the portion of the Special Planning Area 4B (SPA-4B) zone north of South 140th St.
 - B. *SCTFs* should be located in relationship to transportation facilities in a manner appropriate to their transportation needs.
 - C. No *SCTF* shall be allowed within the following distances from the following specified ~~uses~~ areas or zones, whether such ~~uses~~ areas or zones are located within or outside the City limits:
 - i. Within 330 feet of any *residential zone*,
 - ii. *Adjoining* immediately across a ~~street~~ or parking lot from, or within the line of sight of a “risk potential activity” as defined in RCW 71.09.020, as amended.
 - iii. Within one mile from any existing *SCTF*, work release, prerelease, or similar facilities as defined in RCW 71.09.250(8) and (9).
 - D. The distances specified in subparagraph C of this subsection shall be measured by following a straight line from the nearest point of the *building* in which the *SCTF* is to be located, to the nearest point of the zoning boundary line or *property line* of the *lot* on which the use from which the proposed *SCTF* is to be separated is located.
5. On-Site Facilities Required: Each *SCTF* shall provide on-~~site~~ dining, on-~~site~~ laundry or laundry service, and on-~~site~~ recreation facilities to serve the residents.
6. Application Materials: In addition to the regular application materials required for a Land Use Review pursuant to BMC 19.65.030.2, an application for an *SCTF* shall also include:
 - A. The siting process used for the *SCTF*, including alternative locations considered.
 - B. An analysis showing that utmost consideration was given to potential ~~sites~~ such that siting of the facility will have no undue impact on any one racial, cultural, or socio-economic group, and that there will not be a resulting concentration of similar facilities in a particular neighborhood, community, jurisdiction, or region.
 - C. Proposed mitigation measures including the use of extensive buffering from *adjoining uses*.
 - D. A general overview of planned security for the facility.
 - E. A schedule and analysis of all public input solicited or to be solicited during the siting process. [Ord. 396 §1, 2003, Ord. 363 §1, 2002]

19.17.120 Building Height measurement methods.

1. *Building* height shall be measured from the average natural grade to the highest point of the *structure* To determine compliance with the height limit:

A. Review of plans and elevations provided by the *applicant*:

- i. The *site* plan shall indicate the natural and proposed finished grade and *building footprint*, and
- ii. *Building* elevations shall be provided for each side of the *structure*

Site plan and *building* elevation submittal requirements shall be set forth in administrative procedures.

On sloping lots or when a *structure* is proposed within two feet of the height limit, the natural grade shall be evidenced by a topographical map and supporting information. A topographical map may not be required where the change in elevation of the lot is less than 15 feet in a horizontal distance of 100 feet within the proposed *building lot* (15 percent slope).

B. The average natural grade is measured by delineating the smallest square or rectangle which can enclose the *building footprint* and then averaging the elevations taken at the midpoint of each side of the square or rectangle.

C. The height of a *structure* is measured from the average natural grade vertically to the highest point of the *structure*

D. Compliance with the height limit shall be determined by:

- i. Field verification by building official or designee of the establishment of the bench mark for a topographic map, if applicable,
- ii. Review of building permit plans,
- iii. Field verification at the completion of *building* framing.

On sloping lots or when the *structure* is within two feet of the height limit, certification by a licensed surveyor is required.

On all other *structures*, verification by the building official or designee is required at the time of the framing inspection. [Ord. 428 § 3, 2005; Ord. 252 § 3, 1999; Ord. 103 § 6, 1994; Ord. 28 § 1(341), 1993]

19.17.130 Height - Exceptions to limits.

The following *structures* may be erected above the height limits of BMC 19.15.

1. Roof *structures* housing or *screening* elevators, stairways, tanks, ventilating fans or similar equipment required for *building* operation and maintenance; and
2. Fire or parapet walls, skylights, flagpoles, chimneys, smokestacks, church steeples, communication transmission and receiving structures, *personal wireless service facilities* regulated by BMC 19.50, utility line towers and poles, and similar *structures* [Ord. 428 § 3, 2005; Ord. 28 § 1(353), 1993]

19.17.140 Height - Limits near major airports.

No *building* or *structure* shall be erected nor shall any tree be allowed to grow to a height in excess of the height limit established by the airport height maps for the Seattle-Tacoma International Airport. [Ord. 428 § 3, 2005; Ord. 28 § 1 (354), 1993]

19.17.150 Calculations – Allowable dwelling units.

1. The maximum allowed number of *dwelling units* shall be computed by multiplying the net *site* area (in acres) by the applicable residential density. However in the RS zones, no *lot* shall be created less than the required minimum *lot* area except through the application of *lot averaging* as provided by BMC 19.15 and/or clustering as provided by BMC 19.40.230
2. Only whole numbers will be utilized in determining permitted number of units or floor area. When calculations result in a fraction, the fraction shall be rounded down to the nearest whole number. [Ord. 269 § 1, 1999; Ord. 103 § 7, 1994; Ord. 28 § 1(343), 1993]
3. *Submerged lands* are not counted toward density or floor area calculations. [Ord. 428 § 3, 2005; Ord. 252 § 5, 1999; Ord. 28 § 1(344), 1993]

19.17.160 Lot area – Prohibited reduction.

Any portion of a *lot* that was required to calculate and ensure compliance with the standards and regulations of this title shall not be subsequently subdivided or segregated from such *lot*. [Ord. 428 § 3, 2005; Ord. 28 § 1(345), 1993]

19.17.170 Lot area – Minimum lot area for construction.

Except as provided for *nonconformances* by Chapter 19.55 BMC:

In the R zones construction may be permitted on:

1. Any legally subdivided *lot* of record created by the City of Burien; or
2. Any legally subdivided *lot* of record created prior to February 28, 1993, or created prior to any annexation into the City; or
3. Any *lot* created prior to the enactment of any applicable state subdivision statute, provided the size of the lot was not reduced by more than 50 percent through acquisition for public purposes. On such lots new homes may be built and existing houses may be expanded and remodeled. [Applicable setbacks, lot coverage, critical area restrictions, design review requirements (if any), height limits and other applicable regulations in the zoning code shall be met.] [Ord. 428 § 3, 2005]

19.17.180 Setbacks – Specific building or use.

When a *building* or *use* is required to maintain a specific *setback* from a *property line* or other *building* such *setback* shall apply only to the specified *building* or *use*. [Ord. 428 § 3, 2005; Ord. 28 § 1(347), 1993]

19.17.190 Setbacks – Modifications.

The following *setback* modifications are permitted:

1. When the common *property line* of two *lots* is covered by an existing *building(s)*, the *setbacks* required by this chapter shall not apply along the common *property line*. When a building is *substantially improved* the *director* may require a lot line adjustment to adjust or remove the lot line from passing through a *building*.
2. When a *lot* is located between lots having nonconforming *front setbacks*, the required *front setback* for such *lot* may be the average of the two nonconforming *setbacks* or 60 percent of the required *front setback*, whichever results in the greater *front setback*. [Ord. 428 § 3, 2005; Ord. 28 § 1(348), 1993]

19.17.200 Setbacks - Regional utility corridors.

1. In subdivisions and short subdivisions, areas used as *regional utility corridors* shall be contained in separate tracts.
2. In other types of land development permits, easements shall be used to delineate such corridors.
3. All *buildings* and *structures* shall maintain a minimum distance of five feet from property or easement lines delineating the boundary of regional utility corridors, except for utility *structures* necessary to the operation of the utility corridor. [Ord. 428 § 3, 2005; Ord. 28 § 1(349), 1993]

19.17.210 Setbacks - Alleys.

1. A *setback* is not required abutting an *alley*, except as provided in subsection (2).
2. Vehicle access points from garages, carports or fenced parking areas shall be setback from the *alley property line* to provide a straight line length of at least 26 feet from the access point to the opposite edge of the *alley*. No portion of the garage or the door in motion may cross the *property line*. [Ord. 428 § 3, 2005; Ord. 28 § 1(350), 1993]

19.17.220 Setbacks - Adjoining half-street or designated arterial.

In addition to providing the standard *front setback*, a lot adjoining a half-street or designated arterial shall provide an additional width of *front setback* sufficient to accommodate construction of the planned half-street or arterial. [Ord. 428 § 3, 2005; Ord. 28 § 1(351), 1993]

19.17.230 Setbacks - Projections allowed.

Projections may extend into required *setbacks* as follows:

1. Fireplace *structures*, bay or garden windows, enclosed stair landings, closets, or similar structures may project into any *setback*, provided such projections are:
 - A. Limited to two per *façade*;
 - B. Not wider than 10 feet; and
 - C. Not more than 24 inches into an *interior setback* or 30 inches into a *front setback*; and
 - D. Total projections on any one *façade* shall not exceed 50% of the building *façade* on which they are located.
2. Uncovered porches and *decks* which exceed 18 inches above the finished grade may project:

- A. Eighteen inches into *interior setbacks*, and
 - B. Five feet into the *front setback*;
3. Uncovered porches and *decks* not exceeding 18 inches above the finished grade may project to the *property line*
 4. Eaves may not project more than:
 - A. Eighteen inches into an *interior setback*;
 - B. Twenty-four inches into a *front setback*; or
 - C. Eighteen inches across a lot line in a zero-lot-line development; and
 5. Fences with a height of six feet or less may project into any *setback*, provided that the sight distance requirements of BMC 19.17.240 are maintained. [Ord. 28 § 1(352), 1993]
 6. Retaining *structures* no higher than 18-inches above finished grade, measured at the lowest point of the wall may be allowed in *setbacks*.
 7. Retaining walls at any height may be located in the setback if it is retaining a cut into the *natural grade*
 8. Temporary *structures* may be located within a front or *interior setback* if 6-feet or less in height. [Ord. 428 § 3, 2005]

19.17.240 Sight distance requirements.

Except for utility poles and traffic control *signs*, the following sight distance provisions shall apply to all intersections and *site*access points:

1. A sight distance triangle area as determined by subsection (2) of this section shall contain no *fence*, berm, *vegetation*, on-site vehicle parking area, *signs* or other physical obstruction between 42 inches and eight feet above the existing street grade (see Figure 19.17.240-1);

Note: The area of a sight distance triangle between 42 inches and eight feet above the existing street grade shall remain open.

2. The sight distance triangle at:
 - A. A *street* intersection shall be determined by measuring 15 feet along both *front property*lines beginning at their point of intersection. The third side of the triangle shall be a line connecting the endpoints of the first two sides of the triangle; or

- B. A site access point shall be determined by measuring 15 feet along the *front property* lines and 15 feet along the edges of the driveway beginning at the respective points of intersection. The third side of each triangle shall be a line connecting the endpoints of the first two sides of each triangle; and
3. The *director* may require modification or removal of *structures* or *landscaping* located in required *front setbacks*, if:
- A. Such improvements prevent adequate sight distance to drivers entering or leaving a driveway, and
- B. No reasonable driveway relocation alternative for an *adjoining lot* is feasible.
[Ord. 428 § 3, 2005; Ord. 28 § 1(356), 1993]

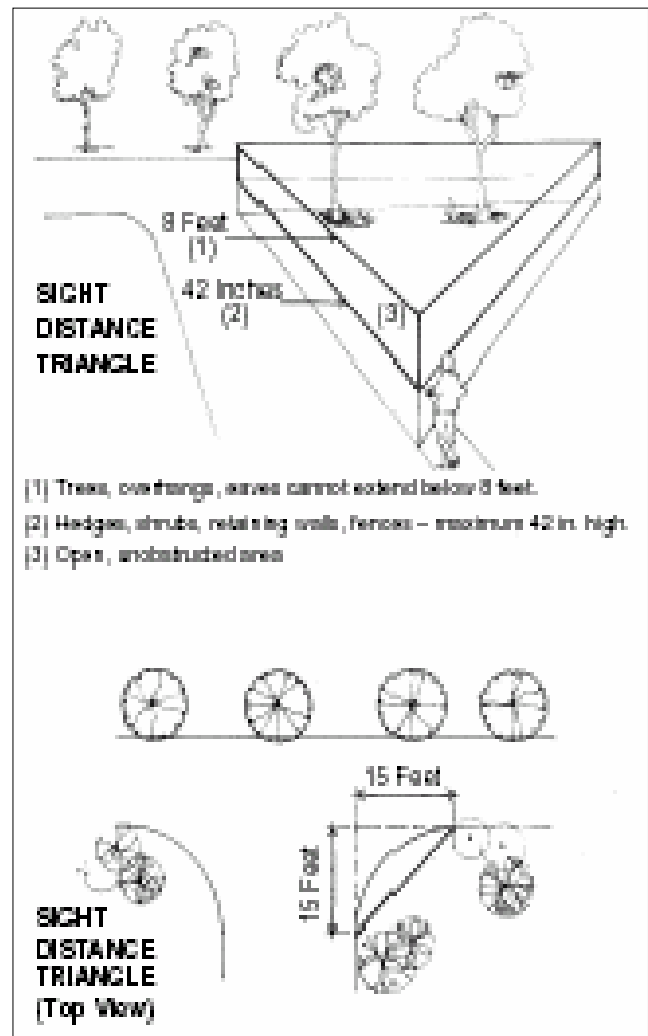


Figure 19.17.240-1